

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1464 of 2000

to

FIRST APPEAL No 1479 of 2000

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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SPECIAL LAND ACQUISITION OFFICER

Versus

GORDHANBHAI CHIMANBHAI PATEL

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Appearance:

MR ND GOHIL, AGP, for Appellants

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CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.C.PATEL

Date of decision: 22/11/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. These are appeals under section 54 of the Land Acquisition Act read with section 96,CPC, at the instance of the State challenging the common judgement and awards passed by the Reference Court under section 18 of the said Act.

2. We have heard the learned counsel for the appellant and also referred to such oral and documentary evidence on record to which our attention has been drawn.

3. The Reference Court has extensively referred to the oral and documentary evidence on record, and we are in general agreement with the appreciation of the evidence on the part of the Reference Court, and the findings of fact recorded thereon.

4. In the ultimate analysis the Reference Court has mainly relied upon two earlier awards at Exh.34 and Exh.35. Exh.34 is an award in a reference under section 18 wherein the lands of the village Vaniyadhari were acquired under a notification issued under section 4 of the said Act on 14th April 1983. Learned counsel for the appellant is unable to point out as to why the said award cannot be relied upon either on account of a significant interval between the dates of the relevant section 4 notifications or on account of a significant difference in the quality and nature of the lands and/or their fertility. The instant lands were acquired under two notifications under section 4 of the said Act dated 21st March 1983 and 21st July 1983, whereas the relevant notification in Exh.34 was dated 14th April 1983. Obviously there is no significant time interval between the two notifications. Learned counsel for the appellant is unable to point out either on account of the distance between the two villages or on account of any other factor as to why the quality and fertility of the lands are not comparable. In the instant case the Reference Court has accepted the evidence on record and has come to the conclusion that the lands are of the same type and they are close to each other. There is, therefore, no reason why the said award at Exh.34 cannot be taken as a comparable instance, under which the market value has been determined at Rs.60000/- per hectare for irrigated lands.

5. The Reference Court has also referred to and relied upon another earlier award under section 18 of the said Act at Exh.35. This award pertains to acquisition

of land situated at Bodeli and the relevant notification under section 4 was issued on 28th November 1983. Once again for the reasons stated hereinabove, learned counsel for the appellant is unable to point out any distinction or difference in the quality of lands, the fertility of the lands or on account of the distance between the two villages, why the said award should not be acceptable as a comparable instance. The notification under section 4 in respect of Exh.35 was dated 28th November 1983, whereas in the instant case the relevant notifications are dated 21st March 1983 and 21st July 1983. This difference of about four months in the publication of the notifications under section 4, would not significantly affect the determination of market value in respect of the instant acquisition. In any case, the award at Exh.35 determines the market value of Rs.75000/- per hectare, whereas in the instant case the Reference Court has awarded only Rs.60000/- per hectare in respect of irrigated lands and Rs.40000/- in respect of non-irrigated lands.

6. We, therefore, find that there is no reason whatsoever to take any different view of the matter even on the basis of reappraisal of the evidence on record.

7. As against the claimants' demand of Rs.90000/per hectare in respect of the irrigated lands and Rs.45000/per hectare in respect of non-irrigated lands, the Reference Court has awarded only Rs.60000/- per hectare for irrigated land and Rs.40000/- per hectare in respect of non-irrigated lands.

8. In the premises aforesaid, we find that the award and the market value determined thereunder in respect of the acquired lands cannot be said to be excessive in any manner whatsoever so as to justify interference by way of the present appeal.

9. We, therefore, find that there is no substance in the present group of appeals and the same are accordingly summarily dismissed.

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